



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,030	11/09/2001	Ted Gower	1789.009	9991

21917 7590 07/28/2004

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS, FL 33410

EXAMINER

GREEN, CHRISTY MARIE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,030

Applicant(s)

GOWER, TED

Examiner

Christy M Green

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-20 and 22-29 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is a first office action for serial number 10/033030, entitled Flexible Wind Abatement System, filed on November 9, 2001; following a Request for Continued Examination filed 4/12/04 which is acceptable and a RCE has been established. An action on the RCE follows.

In response to the examiner's office action dated December 5, 2003, the applicant has cancelled claims 1-17, and added claims 18-29 and filed a Terminal Disclaimer.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18, 19, 24 and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sandow, US Patent # 5,237,788 in view of Duncan, US Patent # 4,932,457.

Sandow discloses the claimed invention including a process for maintaining integrity of a structure containing frangible portions comprising the steps of providing a protective barrier device (figure 1) formed of a flexible (column 2, lines 59-62) mesh material (12, column 2, lines 39-41) having a burst strength greater than 61.1 psi (column 1, lines 38-48 with "14" and "16"), positioning the protective barrier device in juxtaposed relation to said frangible

Art Unit: 3635

portions (S) said structure (F, W); and securing said protective barrier to said structure (by 20); wherein said protective barrier provides reduction of wind force sufficient to maintain the integrity of said structure (obvious if it can support a person falling on the assembly from breaking the skylight); the protective barrier device (figure 1) is formed as at least one panel (interpreted to be "S") including a peripheral hem (20) adapted to secure said panel to said structure (figure 1); the panel is transparent (obvious if it is a skylight that some transparency would be within the panel since the function is to allow the passage of light into a structure); providing a plurality of releasable fasteners by (40 and 22) for attachment of said protective barrier to said structure; each said panel (S) having parallel edges (see attached figures 3 and 5) being releasably connected to said structure (W) by a plurality of cooperating releasable fasteners (52 or by 40 and 22) spaced therealong (figure 4); said spaced fasteners are reinforced with a tape (column 3, lines 25-27).

Sandow does not disclose an interstice size constructed and arranged to prevent passage of wind-borne objects greater than about 3/16 inch diameter; said tape is polypropylene; and said protective barrier includes a plurality of said panels.

Duncan teaches that it is known in the art to provide a screen or mesh material arranged to prevent the passage of objects greater than about 3/16 inches, since Duncan's screen openings are 0.018 inch diameter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add or attach the screen as taught by Duncan with the screen of

Art Unit: 3635

Sandow in order to provide extra strength properties and to enhance security of the building and or resist vandalism (column 1, lines 5-15 and to improve the fit of the screen against the building on which the screen is installed.

In regards to the said tape is polypropylene, Sandow teaches that the adhesive can be of any suitable fastening means, therefore It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tape/adhesive to be of a polypropylene material, since it has been held that to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Also, it is common knowledge to those of ordinary skill to choose materials that has sufficient strength for the intended use of that material.

In regards to the protective barrier includes a plurality of said panels, It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a plurality of panels, in order to provide more locations within the building to receive light, and since it has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sandow in view of Duncan and further in view of Verbeeck, US Patent # 4,644,684.

Sandow in view of Duncan disclose the claimed invention as stated above in claim 1, except for the protective barrier device is a textile formed of synthetic threads.

Verbeeck teaches that it is known in the art to provide the protective barrier device (1) is a textile formed of synthetic strips. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the materials in the screen as taught by Verbeeck with the screens of Sandow in view of Duncan in order to provide shading and an insulating screen, permeable to air (column 2, lines 26-29 and lines 34-35) and to regulate or proportion the light intensity (column 6, lines 28-30).

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sandow in view of Duncan and further in view of Kish et al., US Patent # 5,632,839.

Sandow in view of Duncan disclose the claimed invention as stated above in claim 1, except for the synthetic threads are polypropylene.

Kish teaches that it is known in the art to provide the synthetic screen to be of polypropylene. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the materials in the screen as taught by Kish with the screens of Sandow in view of Duncan in order to provide aid in the reduction of corroding or rusting such as with a metal screen (column 1, lines 55-60).

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sandow in view of Duncan and further in view of Corbett, US Patent # 4,903,821.

Sandow in view of Duncan disclose the claimed invention as stated above in claim 1, except for the synthetic threads are vinyl-coated polyester.

Corbett teaches that it is known in the art to provide synthetic screen with vinyl-coated polyester. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the materials in the screen as taught by Corbett with the screens of Sandow in view of Duncan in order to provide a durable screen with enough rigidity to permit apparatus to stand in an upright position (column 2, lines 9-13).

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sandow in view of Duncan and further in view of Dominguez, US Patent # 4,429,952.

Sandow in view of Duncan disclose the claimed invention as stated above in claim 1, except for the panel includes a superposed layer of continuous film.

Dominguez teaches that it is known in the art to provide the panel includes a superposed layer of continuous film. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the layer of film as taught by Dominguez with the assembly of Sandow in view of Duncan in order to provide a reflective layer immune to ultraviolet radiation (column 7, lines 2-7).

Allowable Subject Matter

Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Art Unit: 3635

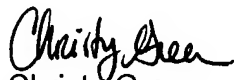
Applicant's arguments with respect to claims 18-29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 703-308-9693. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christy Green
Patent Examiner
July 26, 2004

